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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,057	11/02/2001	Koen Hendrik Johan Vrielink	NL 000571	4904

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
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BRIARCLIFF MANOR, NY 10510

EXAMINER

FLETCHER, JAMES A

ART UNIT

PAPER NUMBER

2621

DATE MAILED: 04/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/003,057	<b>Applicant(s)</b> VRIELINK, KOEN HENDRIK JOHAN	
	<b>Examiner</b> James A. Fletcher	<b>Art Unit</b> 2616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-7 and 20-22 is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 8-16 is/are rejected.
- 7) ☒ Claim(s) 17-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/12/2</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Regarding claim 22**, the preamble of the claim recites a device according to the device in independent claim 20, but it goes on to recite dependency on method claims including independent claim 10. While a device may carry out a method, the device consists of elements, while a method consists of steps. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 8, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Wysong (3,922,607).

**Regarding claims 1, 2, and 16**, Wysong discloses a method of transmitting and receiving audio information that is divided into primary, secondary, and tertiary programs, the secondary programs are transmitted in an alternating sequence and the

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tertiary programs are transmitted parallel to those programs (Col 3, lines 1-5 "one subcarrier is modulated with substantially continuous program material, such as background music, and another subcarrier is modulated with sequential messages, each message having associated therewith [sic] a coded address signal")

**Regarding claim 8**, Wysong discloses a method of transmitting programs broadcast by a radio transmitter (Col 2, line 68 "an improved broadcasting system").

**Regarding claim 9**, please see Examiner's remarks regarding claim 1.

Further regarding claim 9, Wysong discloses a method of transmitting programs that comprise commercials (Col 1, lines 60-63 "a second subcarrier generator, at a different frequency, is modulated with a second program, such as commercial messages").

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wysong.

**Regarding claim 10**, Wysong discloses a mode where the selected program terminates after a time (Col 1, lines 65-68 "The second subcarrier also contains a signal which causes the receiver to revert back to normal programming once a particular message has concluded"), but is silent on the mode being initiated by a user.

The Examiner takes official notice that user intervention is notoriously well-known, commercially available, and widely used on a variety of equipment, allowing a user to have the equipment perform the actions the user prefers or desires at the time the user prefers or desires it.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wysong in order to include a user-initiated mode.

**Regarding claim 11**, Wysong discloses the secondary information is transmitted parallel to the primary information (Col 1, line 51 “Two subcarriers are used”).

**Regarding claim 12**, please see Examiner’s remarks regarding claim 8.

**Regarding claim 13**, please see Examiner’s remarks regarding claim 9.

**Regarding claim 14**, please see Examiner’s remarks regarding claim 1.

**Regarding claim 15**, Wysong is silent on digitally encoding of the information.

The Examiner takes official notice that digital encoding of audio and video information is notoriously well known, commercially available, and widely used, providing users and providers with a robust, high quality, reliable means of transmitting information.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wysong to digitally encode the program information.

***Allowable Subject Matter***

7. Claims 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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**Regarding claims 17-19**, the prior art discloses several information streams consisting of sequential programs and a parallel program, as analyzed and discussed above. The prior art does not disclose the use of a buffer for intermediate storage of a stream not being played while the other stream is being played.

8. Claims 3-7 and 20-22 are allowed.

**Regarding claims 3-7 and 20-22**, please see Examiner's remarks regarding claims 17-19 above.

The Examiner notes that Hite et al (6,002,393), referred to as Beauregard, was cited in the PCT report as an X reference against claims 20-22. The Examiner feels that this reference is misapplied, because it does not fairly disclose, teach, or suggest the information in each channel being divided into primary and secondary information as recited in claim 20. Rather, Hite et al disclose a parallel program that is only one type of information, that being commercials.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Fletcher whose telephone number is (571) 272-7377. The examiner can normally be reached on 7:45-5:45 M-Th, first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAF  
20 March 2006

  
**James J. Groody**  
**Supervisory Patent Examiner**  
**Art Unit 262** 2621